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December 18, 2007

## **AGENDA ITEM 3**

**TO: MEMBERS OF AD HOC BOARD MEMBER ELECTIONS COMMITTEE**

- I. SUBJECT:** Board Member Elections Process – Instant Runoff Voting
- II. PROGRAM:** Administration
- III. RECOMMENDATION:** *Review Instant Runoff Voting Following Secretary of State Certification of a System*
- IV. ANALYSIS:**

At the conclusion of the August 10, 2007, Board Member Elections Committee meeting, the Chair directed staff to conduct further analysis and recommendations related to the implementation of Instant Runoff Voting (Item 4, sub-item 6).

### Background

Prior to 1996 legislation, both election procedures and results for CalPERS elections required review, approval, and certification by the California Secretary of State (Government Code Section 20096). A legislative change sponsored by the Secretary of State eliminated its review, approval, and certification of CalPERS election procedures only. The Secretary of State retains the long-standing requirement of certifying CalPERS election results.

Since the change in Government Code 20096, CalPERS has continued to use Secretary of State certified vendors and systems for preparing ballots and conducting canvassing (i.e. ballot counting) processes in order to be above reproach in the conduct of CalPERS elections.

### Instant Runoff Voting

**Instant Runoff Voting (IRV)**, called Ranked Choice Voting (RCV) by the San Francisco Department of Elections, is a process by which voters rank the candidates in order of preference. IRV uses counting methodologies that arrive at a majority for the winning candidate without a separate runoff election.

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In its literature, the San Francisco Department of Elections succinctly describes how RCV works:

- “To start, every first-choice selection is counted. Any candidate who receives a majority (more than 50%) of the first-choice selections is declared the winner.
- If no candidate receives a more than 50% of the first-choice selections, the candidate who received the fewest number of first-choice selections is eliminated.
- Voters who selected the eliminated candidate as their first choice will have their vote transferred to their second choice.
- The votes are then recounted. If any remaining candidate receives more than 50% of the votes, he or she is declared the winner.
- If no remaining candidate receives more than 50% of the votes, the process of eliminating candidates and transferring votes to the next ranked candidate is repeated until one candidate has a winning majority.”

There are various theoretical possibilities as to how IRV could work, each potentially arriving at a different outcome. However, when a specific system is certified for use in California elections, the system's methodology is finalized. In other words, the canvassing method cannot be separated from the system using it. Adoption of a certified system for use in an election, by that act, also adopts the canvassing method.

IRV has been in use in a number of jurisdictions throughout the world with success. Those jurisdictions include but are not limited to Australia, Ireland, London, Fiji, and San Francisco. There is a growing interest to implement IRV in California jurisdictions, including the cities of Berkeley, Davis, Oakland, and San Leandro.

The Secretary of State recently decertified the system used since 2004 to tabulate San Francisco's ballots and it may not be used after the November 2007 election. The system was decertified in a letter from the Secretary of State to the vendor dated May 9, 2007, because it has never been federally qualified to the federal voting system standards. (The system had been previously certified three times on either a one-time or one final time basis.)

Without the system previously used in San Francisco, there is no Secretary of State certified vendor or system for the processing of IRV election results in California at this time. Government Code section 20096 requires that CalPERS secure the Secretary of State's certification of its elections. Staff contacted Lowell Finley, Deputy Secretary of State, Voting Systems Technology and Policy, on October 30, 2007, to determine whether their certification of election results would continue if CalPERS chose to use non-certified vendors and systems in the conduct of its elections. Mr. Finley stated the Secretary of State would not certify the results

of a CalPERS election conducted using a voting system that has not been certified for use in California elections.

As a result, staff believes it is premature to consider implementation of IRV for the conduct of CalPERS elections and that IRV deserves specific review and analysis, but only for those systems certified by the Secretary of State.

As of November 9, 2007, the Secretary of State had no pending application from any vendor to operate a system using IRV. Should they receive an application, the review and certification process takes approximately 17 weeks following the date of receipt of a completed application.

Therefore, staff recommends that IRV for use in CalPERS elections should be revisited following the certification of a system or systems that process IRV voting.

CalPERS is committed to systems and processes that meet or exceed statutory and regulatory requirements and wishes to conduct its elections in a manner that is above reproach. To consider implementation of IRV now exposes CalPERS to a risk that should not be taken.

**V. STRATEGIC PLAN:**

This item is not a specific product of the Strategic Plan, but is part of the regular and ongoing workload of the Operations Support Services Division.

**VI. RESULTS/COSTS:**

Unknown until a specific certified system is available for review.

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